

Message Text

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ACTION SCS-03

INFO OCT-01 NEA-09 ISO-00 SY-04 L-03 H-03 SSO-00 CIAE-00

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FM AMCONSUL CALCUTTA

TO SECSTATE WASHDC NIACT IMMEDIATE 4032

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C O N F I D E N T I A L CALCUTTA 1434

E.O. 11652: GDS

TAGS: CASC, PFOR, IN

SUBJECT: HARCOS/FLETCHER: BASIS OF CHARGES

1. CHIEF SECRETARY WAS INACCESSIBLE THROUGHOUT JULY 11 BECAUSE OF PENDING VISIT OF P.M. I DID MANAGE A BRIEF TELEPHONE CONVERSATION WITH HIM TO TELL HIM OF PRISONER'S INDICATION TO CONSUL BALL OF DESIRE TO TALK WITH GOI OR GOWB OFFICIAL. CHIEF SECRETARY SAID THAT "UNDER OUR LAW" IT WOULD NOT BE POSSIBLE AT THIS POINT FOR PRISONERS TO MAKE STATEMENT EXCEPT TO OFFICIALS OF THE COURT TO WHICH THE CASE WAS NOW COMMITTED. HE THOUGHT, HOWEVER, THAT IF THEY WISHED TO MAKE STATEMENT EXPLAINING WHAT THEY WERE DOING AT THE TIME OF ARREST, THE COURT MIGHT BE PREPARED TO RECEIVE IT BEFORE THE OPENING OF THE TRIAL.

2. SUBSEQUENTLY I DISCUSSED THAT IDEA WITH DEFENSE LAYER BHOSE WHO THOUGHT IT HAD SOME MERIT. HE WILL BE LOOKING INTO THIS POSSIBILITY OVER THE WEEKEND.

3. COMMENT: WHILE A STATEMENT TO THE COURT WOULD HAVE NO BEARING ON THE BASES OF CHARGES, IT MIGHT PROVE USEFUL WITH PROSECUTION IN THE PERIOD BEFORE THE TRIAL ACTUALLY BEGINS. AT A MINIMUM, IT MIGHT HELP PRISONERS' STATE OF MIND IF THEY ARE PERMITTED TO MAKE THE STATEMENT.

4. ALTHOUGH IT MAY SEEM REDUNDANT, WE WOULD LIKE TO TAKE THIS OPPORTUNITY TO POINT OUT THAT EVIDENCE FROM A VARIETY OF SOURCES

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MAKES IT CLEAR BEYOND ANY REASONABLE DOUBT THAT THE TWO AMERICANS

WILL BE TRIED UNDER THE OFFICIAL SECRETS ACT, NOT FOR VIOLATIONS
OF LAWS RELATING TO NARCOTICS SMUGGLING. (AT THIS LATE STAGE
WE PROBABLY CAN'T DO ANYTHING TO CHANGE THE CHARGES AND PROBABLY
WOULDN'T WANT TO EXPOSE OURSELVES TO CHARGES OF ATTEMPTING TO
INTERFERE IN DUE PROCESS) /NONETHELESS, UNLESS WE ARE INSTRUCTED
OTHERWISE WE WILL/ CONTINUE TO PRESS LOCALLY FOR A SPEEDING UP OF
THE TRIAL, WHICH WILL ALMOST CERTAINLY BE UNDER THE OFFICIAL
SECRETS ACT.
PICKERING

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